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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

A. Bagwell et al.

Serial No.: 09/702,093

Filed: October 30, 2000

For: COATING FOR TREATING SUBSTRATES
FOR INK JET PRINTING INCLUDING
IMBIBING SOLUTION FOR
ENHANCED IMAGE VISUALIZATION
AND RETENTION, METHOD FOR
TREATING SAID SUBSTRATES, AND
ARTICLES PRODUCED THEREFROM

) Docket No.: 15260

) Group No.: 1713

) Examiner: Judy M. Reddick

) Conf. no.: 7880

.....)
Mail Stop Appeal Brief - Patents
Commissioner For Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Brief on Appeal to the Board of Patent Appeals and Interferences

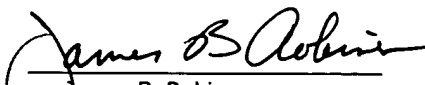
Pursuant to 37 C.F.R. 1.192 Appellants respectfully submit this Brief in support of their Appeal of Examiner Reddick's **Final Rejection** of claims 1 - 13 which was mailed on November 27th, 2002.

On April 25th, 2003, Appellants, pursuant to 37 C.F.R. 1.191 mailed a timely Notice of Appeal. Thus, the time period for filing this Brief ends on June 25th.

In accordance with 37 C.F.R. 1.192(a) this Appeal Brief is filed in triplicate.

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I, James B. Robinson, hereby certify that on June 25, 2003, this document is being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to: Commissioner of Patents, PO Box 1450, Alexandria, VA 22313-1450.


James B. Robinson

Real Party in Interest

The present Application has been assigned to the Kimberly-Clark Worldwide, Inc.

Related Appeals and Interferences

None

Status of the Claims

Claims 1 - 13 remain in the application with claims 1 - 13 being finally rejected.

Status of Amendments Filed Subsequent to Final Rejection

An amendment was submitted on February 20th, 2003, requesting that the term "comprising" be replaced with the term "consisting essentially of" in the preamble of claims 1, 4, 10 and 13. A change in the title of the invention was also requested. The Examiner declined to enter the amendment.

Summary of the Invention

The invention is an aqueous coating formulation for enhancing the image visualization and retention of reactive dye-based inks.

The Issues Presented

The issue to be decided is whether the narrowing of claims through the use of the term "consisting essentially of" raises issues that would require further consideration and/or search.

Grouping of the Claims

The claims stand or fall together.

Argument

In the office action of June 18th, 2002 the Examiner cited art which she said anticipated or made

obvious Applicants' invention. Applicants argued in response that the cited art required certain components that would have a detrimental affect on Applicants' invention and so would be excluded by someone skilled in the art. In the final office action of November 27th, 2002 the Examiner explained that Applicants' argument was not persuasive because the term "comprising" was "an open door invite for additional components", even though Applicants may consider them detrimental. Applicants then attempted to close the door to the additional components by changing the claim preamble to "consisting essentially of". The term "consisting essentially of" operates to exclude the additional ingredients that significantly change the characteristics of the composition (Ex parte Davis, 80 USPQ 448). This change was rejected by the Examiner on the basis that it would require further consideration and/or search.

Applicants respectfully assert that a narrowing of the claims by the requested change in the preamble certainly requires no further search. The requested amendment clearly removes the cited art from application by excluding their additional components which the Applicants believe are detrimental.

Appendix – The Claims On Appeal

The claims on appeal are:

1. An aqueous coating formulation containing solids, for enhancing image visualization and retention of reactive dye-based inks, comprising:
 - a) a cationic homopolymer or copolymer,
 - b) a cationic or non-ionic fabric softener; and
 - c) urea, and
 - d) an ingredient selected from the group consisting of sodium bicarbonate, sodium carbonate and combinations thereof.
2. The aqueous coating formulation of claim 1 wherein said cationic homopolymer or copolymer is present in an amount between about 5 and about 95 weight percent of the total solids.
3. The aqueous coating formulation of claim 1 wherein said fabric softener is present in an amount between about 5 and about 20 weight percent of the total solids.

4. The aqueous coating formulation of claim 1 further comprising a latex binder.
5. The aqueous coating formulation of claim 4 wherein said latex binder is present in an amount between about 0 and about 80 weight percent of the total solids.
6. The aqueous coating formulation of claim 1 wherein said ingredient is present in an amount between about 3 and 10 weight percent of the total solids.
7. The aqueous coating formulation of claim 1 wherein the urea is present in an amount between about 5 and 12 weight percent of the total solids.
8. The aqueous coating formulation of claim 1 further comprising an additive selected from the group consisting of wetting agents, defoamers, surfactants and combinations thereof.
9. The aqueous coating formulation of claim 8 wherein said additive is present in an amount between about 0.1 and 1 weight percent of the total solids.
10. An aqueous imbibing solution, for enhancing image visualization and retention of reactive dye-based inks comprising:
 - a) an ingredient selected from the group consisting of sodium bicarbonate, sodium carbonate, and combination thereof, and,
 - b) urea.
11. The aqueous imbibing solution of claim 10 wherein said ingredient is present in an amount between about 30 and 40 weight percent of the total solids.
12. The aqueous imbibing solution of claim 10 wherein said urea is present in an amount between about 50 and 70 weight percent of the total solids.
13. The aqueous imbibing solution of claim 10 further comprising an additive selected from the group consisting of wetting agents, defoamers, surfactants and combinations thereof.

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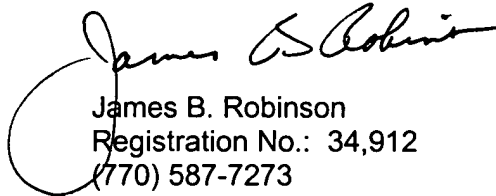
Conclusion

For the reasons stated above it is Appellants' position that the Examiner's rejection of claims has been shown to be untenable and should be **reversed** by the Board.

Please charge the \$320.00 fee, pursuant to 37 C.F.R. 1.17(c), for filing this Appeal Brief to Kimberly-Clark Worldwide, Inc. deposit account number 11-0875. Any additional prosecutorial fees which are due may also be charged to deposit account number 11-0875.

The undersigned may be reached at 770-587-7273.

Respectfully submitted,



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